

# GUAM

## GUAM CODE

### Title 10. Health and Safety

#### Chapter 60. Firearms

**[Note:** References to "Director of Public Safety" changed to "Chief of Police", and references to "Department of Public Safety" changed to "Guam Police Department" pursuant to P.L. 17-78:1, which repealed §5102 GC providing for the Department of Public Safety and reenacted §5102 establishing the Guam Police Department.]

**60100. Definitions.** As used in this Chapter:

(a) **Firearm** means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

(b) **Pistol or revolver** means any firearm of any shape whatever and designed to be fired with one hand with a barrel less than twelve inches (12") in length and capable of discharging loaded ammunition or any noxious gas.

(c) **Rifle** means a firearm designed, made, redesigned or remade and intended to be fired from the shoulder and to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such firearm which may be readily re-stored to fire loaded ammunition, and any antique rifle or long gun, regardless of the type of charge or projectile used, which is capable of being used as a weapon.

(d) **Shotgun** means any firearm designed, made, redesigned or remade and intended to be fired from the shoulder and to fire through a smooth barrel either a number of projectiles (ball shot) or a single projectile, and shall include any such firearm which may be readily restored to fire any of the above, and shall also include any firearm of any age designed and capable of firing the above-mentioned projectiles.

(e) The terms Chief of Police and department mean the Chief of Police and the Guam Police Department, respectively.

(f) **Body armor** means a commercially available, soft, lightweight material with penetration resistance equal to or greater than that of eighteen (18) layers of KEVLAR.

(g) **Restricted bullet** means a bullet that, as determined by the Chief of Police, when fired from a pistol or revolver with a barrel five inches (5") or less in length, is capable of penetrating body armor.

(h) **Putative Owner** means a person who were it not for the requirements of this Chapter, would be the owner of a firearm, or one who acquires possession of a firearm, or one who acquires possession of a firearm by theft.

(i) **Lawful Owner** means a person whose right to a firearm have been perfected in accordance with §60103 of this title.

**60101. Chapter Not Applicable.** This Chapter shall not apply to:

(a) Law enforcement officers when using firearms authorized by the Chief of Police in their official duty.

(b) Persons in the Armed Forces of the United States engaged in official duty.

(c) Devices which are not designed or redesigned for use as a weapon. Any device, although originally designed as a firearm, which has been redesigned, or was designed initially for use as a signaling, pyrotechnic, line-throwing, safety, industrial or similar device, surplus ordnance sold, loaned or given by the Secretary of the Army pursuant to the provisions of §§ 4684(2), 4685 or 4686 of Title 10 of the United States Code is not covered by this Chapter.

(d) Those firearms that can not fire fixed ammunition but are loaded through the muzzle or cylinder with a combination of ball and black powder.

**60102. Ownership, Etc., of Certain Firearms Prohibited.** The manufacture, possession, sale, barter, trade, gift, transfer or acquisition of any machine guns, sub-machine guns, automatic rifles or any other firearm not a rifle having a barrel length of sixteen (16) inches or greater or not a shotgun having a barrel length of eighteen (18) inches or greater or a revolver or pistol having a barrel length of more than twelve (12) inches is prohibited. Mufflers, silencers or devices for deadening the sound of discharged firearms are also prohibited. Any person violating this Section shall be guilty of a felony which shall be punishable for a term of imprisonment of not less than three (3) years and a fine of not less than One Thousand Dollars (\$1,000). Imposition of sentence shall not be suspended and the offender shall not be eligible for parole nor work release until the term of imprisonment prescribed herein has been completed nor may probation be imposed in lieu of this portion of the offender's sentence. Provided, however, that in the case of an offender not previously convicted of a felony, the court may sentence the offender to not more than two (2) years imprisonment and the provisions of this Section prohibiting probation, suspension, parole or work release shall not be applicable to such offender.

**60103. Ownership, Etc., Permitted.** Any person who qualifies under this Chapter may lawfully own, possess, use or carry any rifle, shotgun, pistol or revolver not prohibited by §60102 subject to the conditions and penalties provided in this Chapter.

**60104. Dealer: Register: Dealer, etc., must register.** Any person who is in the business of selling, buying, renting or trading any firearm shall register with the Department of Revenue and Taxation under the terms and conditions set forth in this Chapter and the rules and regulations adopted hereunder before engaging in any of the above activities. The term in the business of shall mean any person, natural or legal, who engages in the above activities for profit or who so engages on behalf of others, but shall not include private sales, loans, gifts or transfers of lawfully possessed firearms which have been registered and possessed under the provisions of §§60103 and 60110 of this Chapter.

**60106. Identification Card: Required.** No person shall own, possess, use, carry or acquire any firearm which is lawful under §60103 unless he shall have first obtained from the Department an identification card evidencing his right to such ownership, possession, use or carrying, concealed or otherwise, as stated upon the face of the card; except that any person may use and possess a firearm at any shooting gallery licensed pursuant to §60105, et seq., without first

obtaining a permit as otherwise required by this Section. Said card shall be in the possession of the holder and on his person whenever he is using or has in his possession a firearm.

**60107. Same: Contents.** Identification cards shall have on their face all the following:

(1) The name, address, sex, height and weight of the holder, his birth date, Social Security number, if any, or Guam I.D. number, if any, and the expiration date of the card which shall be three (3) years after the holder's next birthday.

(2) A photograph of the holder taken immediately prior to issuance.

(3) An indication of the type of firearm which may be owned, used, carried, possessed or acquired by the holder, and whether or not the holder may carry the firearm concealed.

(4) A number, unique to the holder, which shall also be assigned to all registration records concerning firearms possessed by the holder.

**60108. Same: Restrictions.**

(a) No identification card shall issue unless the Department is satisfied that the applicant may lawfully possess, use, carry, concealed or otherwise, own or acquire the type of firearm stated in the application and upon the face of the identification card.

(b) No person shall be issued an identification card:

(1) Who has been convicted by any court of the United States, a state, territory, possession, trust territory or political subdivision thereof of any felony; or

(2) Who is an alien, except temporary permits may be issued to aliens for use only at target ranges operated by persons possessing permits therefor and who are citizens, or only for use at authorized sporting events and except for official representatives of foreign governments in their official capacities; or

(3) Who is presently charged by information or indictment with any crime stated in (b)(1) above; or

(4) Who has been adjudicated incompetent, has been committed to any mental institution; or

(5) Who is under the age of eighteen (18) years; or

(6) Who has been convicted of any violation of the Uniform Controlled Dangerous Substances Act or any misdemeanor where personal injury or use of firearms was an element or factor of the offense unless the Chief of Police has determined that the offense was committed more than ten (10) years previously and that the applicant would not endanger the public safety by receiving an identification card; or

(7) Who, in the determination of the Chief of Police appears to suffer from a physical or mental disease or defect which would adversely affect the safe use of the firearm applied for, unless the person obtains a certificate from a licensed physician stating that the physical or mental disease or defect would not adversely affect his safe operation of the firearm or the public safety.

(c) An applicant for an identification card shall apply therefor on a form supplied by the Department and shall supply such information as may be necessary to afford the Department reasonable opportunity to ascertain the facts required to appear upon the card and facts relevant to the applicant's eligibility for a card, and facts necessary to determine whether the applicant may

carry a concealed weapon if such permission is sought.

(d) If the application is not denied, the identification card shall issue within thirty (30) days, except where application has been made to carry a concealed weapon, in which case the card shall issue within sixty (60) days.

(e) For purposes of this Chapter, the term concealed when used in connection with any firearm whatsoever shall mean a firearm which is carried on a person or within a vehicle in such a manner that it cannot be seen by the naked eye, but would be available for use by the person concealing or attempting to conceal the firearm or any other person aware of the firearm's existence. A firearm is not concealed when it is within a locked portion of any vehicle, unloaded, with the ammunition stored outside of the firearm or any clip or ammunition storage chamber attached to the firearm, and outside of the immediate reach of the person so placing the weapon or any other person knowing of its existence. A firearm is concealed if, among other things, it is hidden beneath any article of clothing so that only the shape is visible, but not the firearm itself.

**60109. Concealed Firearms.** No identification card shall issue permitting the holder to carry a concealed firearm of any nature unless the applicant shows exceptional cause therefor. Such exceptional causes shall include, but not be limited to facts which show that such concealment is absolutely necessary for an individual who is engaged in the protection of persons or property, or who shows that he has a genuine reason to fear for the safety of his person or property and that a concealed firearm would materially lessen the danger. Such permission, once stated upon the identification card, shall not be renewed unless, at the time for renewal, the application shows a continuing need for such permission, using the standards for such permission as they exist at the time for renewal. It shall be unlawful for any person to carry any firearm concealed unless he has received permission to carry such firearm and such permission is sated upon the face of his identification card.

**60110. Registration.** Any person purchasing, receiving by gift, device or otherwise, acquiring or otherwise coming into permanent possession of a firearm, the possession of which is permitted by this chapter, shall register the same with the Department within three (3) working days after acquiring said firearm on the forms specified by the Department. Such facts and information shall be given so as to enable the Department to record for identification purposes the firearm so registered. It shall be unlawful for any person to own or possess any firearm which has not been registered. No firearm may be registered by the Department unless the person presenting the firearm also displays current identification card evidencing his eligibility to own, possess, use or carry the firearm presented for inspection as to the facts required for registration. Any firearm registration which expires on or after March 1, 1988 or which is thereafter issued under this chapter shall be permanent for as long as the registrant retains the firearm. The Chief of Police shall promulgate rules and regulations establishing a permanent firearms identification card and a reasonable fee to cover the cost incurred.

**60111. Transfer of Firearm: Private.** Upon the transfer of any firearm from one person not a dealer, manufacturer, wholesaler or repairer to another not a dealer, manufacturer, wholesaler or repairer, other than on loan, a new registration must be obtained by the new owner or one permanently possessing the firearm, indicating

the prior owner or possessor, and his identification card number, as well as all information pertinent to the new owner or possessor.

**60112. Same: Pawnbroker.** Upon transfer to a pawnbroker, and upon retransfer from the pawnbroker to either the owner or to another person, a new registration must be obtained.

**60113. Loss, Destruction or Theft of Identification Card or Firearm.**

(a) Upon the destruction, mutilation, loss or theft of any identification card, the holder shall report the event to the Department and may obtain a duplicate card upon the payment of the fee required therefor and upon proof of loss, mutilation, destruction or theft. If any portion of the original card remains, the holder must surrender it to the Department before receiving a duplicate.

(b) Upon the loss, theft, damage beyond repair to any firearm registered under this Chapter, the holder of the identification card applicable to the weapon in question shall report the event to the Department, along with the nature of the disposition of the firearm, if lost, destroyed or damaged beyond repair, and the same information shall be recorded upon the registration records kept by the Department applicable to the firearm involved.

(c) The holder of any identification card or any person in whose name a firearm is registered shall report to the Department any change in the facts stated upon the card and any change in the facts which would effect the holder's eligibility to continue to possess a card.

(d) The holder shall report any of the events required to be reported by Subsection (a) and (b) above within three (3) working days of their occurrence and any of the events required to be reported by Subsection (c) within ten (10) days of their occurrence.

**60114. Identification Card: Possession.**

(a) No person may use or possess a firearm regardless of ownership of the firearm, without possession of an identification card evidencing his eligibility to possess, use or carry such firearms.

(b) No person shall transfer, loan, give, sell either as a part of a business or individually, or permit the use of any firearm unless the person receiving the firearm has an identification card evidencing his eligibility to receive, possess, use and carry the type of firearm which he is to receive, borrow, use, buy or possess or carry.

(c) No person shall use, display, or carry with the intent to use or display, an identification card which has been suspended or revoked, or for which a duplicate has been issued, or which has been defaced or altered. No person shall use any of the above for the purpose of obtaining any firearm.

(d) No person shall willfully alter, remove or obliterate the name of the make, model, manufacturer's number or other mark of identity of any firearm or ammunition. Possession of a firearm or ammunition upon which any mark of identity has been altered, removed or obliterated shall be presumptive evidence that the possessor has altered, removed or obliterated the same.

(e) If any person, in complying with any of the requirements of this Chapter, knowingly gives false information or knowingly offers false evidence of any of the facts required by the Department or by this Chapter, he shall be guilty of unsworn falsification and punished therefore as provided by §52.30 of the Criminal and Correctional Code. Additionally, upon conviction, such person shall not be eligible for an identification for a period of ten (10) years, and any existing identification card issued to such person shall be

revoked, and any firearms possessed pursuant to such identification card forfeited.

(f) The registered owner shall report to the Guam Police Department the loss, theft, sale or transfer of a firearm within three (3) working days thereof.

**60115. Dealer: Registration. Dealers, etc., must register.** Any person who is a dealer, manufacturer, wholesaler or retailer of firearms or ammunition within the territory of Guam who must register pursuant to §60104 shall do so by supplying the Department with information required by it relative to the name of the business, name or names of the owners, whether the business is a corporation, sole proprietorship, partnership or any other form, relative to the types of firearms sold, manufactured, bought or repaired by such business, to the security of the storage areas of the business wherein the firearms are stored and any other information deemed necessary by the Department. Upon receipt of the necessary information, the Department shall issue a registration card, which shall be prominently displayed at the place of business of the person or firm so registered and copies to be displayed at each location where firearms are sold.

**60116. Conduct of Dealer's Business.** Any person or firm licensed pursuant to §60104 shall, in the conduct of his business:

(1) Display no firearms or ammunition in any place where they can be seen from outside the premises.

(2) Keep all firearms and ammunition in a securely locked place at all times except when they are actually being shown to a customer or when actually being repaired or worked on.

(3) Permit only persons who are holders of identification cards making them eligible to purchase, possess and use the firearms sold by the registrant or repaired by the repair facility to have access to the firearms or ammunition, except that nothing in this Section shall be construed to require a customer to show an identification card prior to his engaging in a transaction for which an identification card is required by this Chapter.

(4) Sell only to persons who have a valid identification card making them eligible to purchase, own, possess, use and carry the firearm or ammunition which is the subject of the transaction.

(5) Keep a continuing and up-to-date inventory of all firearms and ammunition in his possession and report the loss, theft, damage or destruction of the same to the Department immediately upon the discovery of the event.

(6) Deliver a written warning to the purchaser or transferee of a firearm a written warning which states in block letters not less than one-fourth inch (1/4") in height:

IT IS UNLAWFUL AND PUNISHABLE BY IMPRISONMENT AND A FINE FOR ANY ADULT TO STORE OR LEAVE A FIREARM WITHOUT PLACING IT IN A SECURE LOCKED CABINET OR CLOSET, OR WITHOUT A TRIGGER LOCK IN PLACE.

(7) Conspicuously post at each purchase counter the following warning in block letters not less than one (1) inch in height:

IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM WITHOUT PLACING IT IN A SECURE LOCKED CABINET OR CLOSET, OR WITHOUT A TRIGGER LOCK IN PLACE.

**60117. Repair.** No person, other than the owner or possessor of a firearm, may accept any firearm for repair without having first been shown a valid identification card showing the person delivering the firearm to such person accepting it for repair to be eligible to possess the

firearm in question. No firearm shall be returned to any person after repair or other work done on it without the repairer having seen the identification card of the one to whom the fire-arm is to be given.

**60118. Private Sale or Transfer.** Any person engaging in a private sale, loan or other transfer of a firearm shall be shown by the person receiving the firearm an identification card evidencing the receiver's right to own, possess, use and carry such firearm. It shall be unlawful for a person to transact a private sale, loan, gift or transfer without having seen the valid identification card of the person receiving the firearm.

**60120. Rules and Regulations.** The Chief of Police may adopt, pursuant to the Administrative Adjudication Act, rules and regulations to implement this Chapter. Nevertheless, the absence of such rules and regulations shall not affect the implementation of this Chapter.

**60121. Prohibitions and Penalties.**

(a) Any person who knowingly owns or possesses an unregistered firearm shall be punishable by imprisonment of not less than one (1) year and a fine of not less than One Thousand Dollars (\$1,000).

(b) For any violation of this Chapter or the rules and regulations adopted hereunder where another penalty is not set forth specifically, any person, corporation, firm or business found guilty shall be guilty of a misdemeanor. In the case of a corporation, business or other firm convicted of a violation of this Chapter, as a legal person, then the individual actually performing the acts forbidden or omitting the acts required shall be guilty in addition to the corporation, firm or business as an entity.

(c) Any person who carries a concealed firearm without a valid identification card evidencing permission to carry a concealed weapon shall be guilty of a felony which shall be punishable for a term of imprisonment of not less than three (3) years and a fine of not less than One Thousand Dollars (\$1,000).

(d) Any person who knowingly removes, obliterates or alters the identifying marks of a firearm shall be guilty of a felony which shall be punishable for a term of imprisonment of not less than three (3) years and a fine of not less than One Thousand Dollars (\$1,000).

(e) Any person purchasing, possessing, using or carrying a firearm without an applicable identification card shall be guilty of a felony which shall be punishable for a term of imprisonment of not less than three (3) years and a fine of not less than One Thousand Dollars (\$1,000).

(f) Any person, legal or natural, who transfers, gives, returns, sells or loans any firearm to any person without a valid identification card is guilty of a felony which shall be punishable for a term of imprisonment of not less than three (3) years and a fine of not less than One Thousand Dollars (\$1,000). In the case of a violation by a legal person, the natural persons liable for punishment under this Section, in addition to said legal person, shall be the person or persons performing the forbidden acts or omitting the required acts and any responsible officer of the legal person who knew or should have known of the acts or omissions committed.

(g)(1) Any person legal or natural who transfers, gives, returns, sells, or loans any firearm to any minor is guilty of a felony which shall be

punishable by a term of imprisonment not less than five (5) years and a fine of not less than Five Thousand Dollars (\$5,000). In the case of a violation by a legal person or persons performing the forbidden acts, or omitting the required acts and any responsible officer who knew or should have known of the act as omission committed shall be liable for punishment under this section

(2) This section does not apply when a minor is being instructed by his parent or guardian in the use of weapons or when that minor, properly licensed, is hunting with his parent or guardian who is also properly licensed and complying with the provisions of Department of Agriculture Hunting Regulations §§15300.00 through 15300.29.

(h) Any person who negligently entrusts a firearm to a minor is guilty of a felony, which shall be punishable by a term of imprisonment of not less than one (1) year and a fine of not less than One Thousand Dollars (\$1,000).

(i) Imposition of sentence pursuant to the provisions of this Section shall not be suspended nor shall probation be granted and the offender shall not be eligible for parole nor work re-lease until the term of imprisonment prescribed herein has been completed.

(j) Notwithstanding provisions of this Section to the contrary, in the case of an offender not previously convicted of a felony, the court may sentence the offender to not more than two (2) years imprisonment for an offense established by the provisions of Subsections (a), (b), (c), (d) or (e) of this Section. The provisions of Subsection (f) of this Section prohibiting probation, suspension, parole or work release shall not be applicable to such an offender.

**60121.1. Same: Restricted Bullets.** Any person who imports, manufactures or sells a restricted bullet on Guam, except as specifically authorized by the Chief of Police for purposes of public safety shall be guilty of a felony of the third degree and if the person holds a business license or is registered under the provisions of this Chapter, such business license and such registration shall be subject to revocation.

**60121.2. Same: Same.** Any person who possesses or carries a restricted bullet not in accordance with the regulations promulgated by the Chief of Police shall be guilty of a felony of the third degree.

**60123. Revalidation of Previous Weapon Registration.** All registrations of weapons issued under any prior law are hereby declared revalidated as of the date of enactment of this Act and shall be valid until the next birthday of the holder, at which time an identification card must be obtained and the firearms registered according to the provisions of this Chapter. This Section does not apply to firearms owned, possessed, used or carried in a manner declared illegal by any previous Act.

**60124. Registration of Prohibited Firearms.** Any firearm which cannot be legally owned, possessed, used or carried pursuant to this Act but which was legally possessed, owned, used or carried prior to the effective date of this Act may not be registered hereafter. However, the owner or possessor may retain said weapons until the time specified in §60123, at which time he must dispose of the firearm. If he cannot do so without loss to himself, the Department is authorized to

purchase the firearm from the legal owner based upon the fair market value at the time of last eligibility to possess or own as stated in §60123, and keep or dispose of the firearm as the Chief of Police determines.

**60125. Firearms Forfeited: When.** Upon the conviction of any violation of this Chapter or of any crime wherein the use of firearms was an element or part or was involved in the commission thereof, the firearms involved in the violation shall be declared forfeit by the court convicting such person and be given to the Department for its use, sale or destruction. In addition, the court shall either revoke the applicable identification card or business registration or suspend the same for a period of not less than six (6) months nor for more than two (2) years. In the case of a conviction of a business, the weapons shall be forfeited only where the registration is revoked. In the case of suspension of a business registration no firearms shall

**60126. Registry.** The Department shall maintain a confidential registry, open only to law enforcement officials, of all firearms registered for the life of the weapon on Guam and for two years thereafter. However, once a firearm has been transferred and the registration cancelled in the name of the transferor, then the records of the transferor may be destroyed.

**60127. New Residents.** Any United States citizen who is in legal possession of a firearm or ammunition thereof pursuant to the laws of any state, territory, possession or Trust Territory of the United States shall have a period of thirty (30) days after arriving on Guam as a new resident in which to apply for an identification card and during that period may continue to use the firearm and, for that purpose, the gun is legally in his possession until an identification card is issued or denied him. Thereafter, all provisions of this Chapter apply in full to such person and he must purchase, possess or use firearms only in compliance therewith. The Section does not apply to any firearm which may not be legally possessed or used, carried or purchased under this Chapter. With respect to such firearms the provisions of §60123 shall apply except that under this Section the new resident has thirty (30) days in which to comply. Further, this Section does not apply to persons transiting Guam. Such transiting persons shall not have in their possession any firearm on Guam without first obtaining permission therefor from the Chief of Police.

**60128. Exceptions.** The provisions of Civil Code §§1714.2, and 1716.1; and subitems (40) and (41) of §5107, Title 6, Guam Code Annotated, shall not apply:

(a) If the firearm is stored in a secure, locked cabinet or closet in the home of its lawful owner.

(b) If the minor obtains the firearm as a result of the unlawful entry of the home of the owner of the firearm.

(c) To members of the Armed Forces, National Guard, police or other law enforcement officials with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) If the firearm was properly secured by the owner with a trigger lock.

[Current through the 25<sup>th</sup> Legislature (2000)]